

1 March 8th memo, either of them?

2 A I'm sorry. I don't recall the details.

3 Q Okay. Did you ever discuss the March 8th
4 memos with Susan?

5 A No.

6 Q Did you ever discuss them with Ernie?

7 A No, I didn't. I was tasked to start the
8 process.

9 Q And so once you sent the documents to the
10 Sanchez law firm, you never discussed them with Mr.
11 Sanchez or Ms. Jenkins?

12 A He was really taking a leadership role.
13 I trusted his expertise and his long-time engagement
14 with KALW and SFUSD as FCC counsel.

15 Q Okay. Let's turn to EB Exhibit 23.

16 JUDGE SIPPEL: Let me ask a question. How
17 long had he been serving as counsel for the station?
18 Do you know?

19 THE WITNESS: Your Honor, I would guess it
20 was at least 10 years. It could have been even
21 longer.

22 JUDGE SIPPEL: Did you have an awareness

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1 of that when you started first dealing with him? At
2 the station I'm talking about.

3 THE WITNESS: My awareness was that he had
4 been a long time there, a long time -- the FCC
5 attorney.

6 JUDGE SIPPEL: That's the word I was
7 looking for. Okay.

8 MS. LEAVITT: Thank you, Your Honor.
9 Which is actually SFUSD Exhibit 19.

10 MR. PRICE: That should be in the binder.

11 BY MS. LEAVITT:

12 Q And this is an e-mail -- do you have it?
13 I'm sorry.

14 A I do. Thank you.

15 Q This is an e-mail dated March 26, 2001,
16 from you to Mr. Sanchez with copies to D. Campos,
17 which I assume is David Campos, Jackie Wright, and Mr.
18 Helgeson. First of all, can you identify who Mr.
19 Campos is again?

20 A David Campos is an attorney with the city
21 and county of San Francisco and SFUSD.

22 Q And had you spoken to him before

1 March 26th about the Commission's Letter of Inquiry?

2 A I didn't.

3 Q You state, "Greetings, Ernie," in the body
4 of this exhibit. "We are getting close to the end of
5 March, and I'm wondering if the reply to the FCC has
6 been written. FYI, our public file is now in
7 excellent order, including past years and questions.
8 A couple of things" -- and then you advise him to copy
9 his Sanchez invoices to SFUSD's legal office and to
10 copy both Jackie Wright and David Campos in all
11 correspondence with regard to KALW.

12 Do you have any reason to believe that you
13 did not write this e-mail?

14 A Nope, I do not.

15 Q When you asked, "Ernie, you're getting
16 close to the end of March, and I'm wondering if the
17 reply to the FCC has been written," were you referring
18 to the response to the FCC's February 5, 2001, letter?

19 A The Letter of Inquiry?

20 Q Yes.

21 A Yes, I was.

22 Q And what prompted you to ask about that?

1 A It seemed like there wasn't movement yet.

2 Q Did you have an understanding of when the
3 response was due to the Commission?

4 A My understanding was we had received an
5 extension, but that extension isn't infinite.

6 Q Okay. So did you have, at that time, any
7 idea of what the exact deadline was?

8 A I don't remember. I knew a clock was
9 ticking.

10 Q Okay. Turning to EB Exhibit 24 --

11 JUDGE SIPPEL: Let me ask a question on
12 this, if I can.

13 MS. LEAVITT: Yes, Your Honor.

14 JUDGE SIPPEL: I'm just curious in terms
15 of how this chain of command, if I can -- I'm
16 paraphrasing now, but how it operates up and down the
17 chain here. You're telling Mr. Sanchez that -- you've
18 indicated it's been a long-time relationship with --
19 as counsel. You're telling him at this point to copy
20 both Jackie Wright and David Campos.

21 Did you take that upon yourself to tell
22 him that, or did somebody over and above you tell him

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1 to do that? Do you understand what I'm asking?

2 THE WITNESS: I do, Your Honor. And I'm
3 sure that in conversations with Jackie Wright --

4 JUDGE SIPPEL: Yes.

5 THE WITNESS: -- who was fairly new to the
6 district, she said to me, "Make sure you keep me and
7 David Campos in the loop with what is going on with
8 this. Have Ernie keep us in the loop," and make sure
9 to have Mr. Campos' billings -- I mean, Mr. Sanchez's
10 billings be evident to Mr. Campos, since he was an
11 attorney and he probably would look at a billing with
12 a better eye than, for example, I would. He would
13 know how --

14 JUDGE SIPPEL: All right, all right.
15 Whoa, whoa, whoa. Just a minute now. What was it
16 about this particular point in time that prompted that
17 specific direction to this long-standing counsel? It
18 strikes me that something must have been -- something
19 must have been in the works to tell him that, because
20 he was -- apparently it's something that he didn't do
21 as a matter of course.

22 Sometimes counsel for a company will send

1 -- automatically just send copies up to the General
2 Counsel's office, all that kind of stuff, you know.
3 And apparently that was not being done, but yet at
4 this point in time it was important to you to tell him
5 to do that. I'm trying to ask -- my question to you
6 is: was there some -- was there something significant
7 that was brought to your attention, or was this -- did
8 you just look upon it as just a routine matter?

9 THE WITNESS: Your Honor, I think it was
10 -- all of us at SFUSD are trying to place some
11 protocols in place, and Dr. Ackerman had just come in.
12 It was her first year. She had brought in Ms. Wright.
13 Ms. Wright had not been there very long. She was to
14 supervise me and have the station under her
15 department.

16 So we were all trying to establish
17 protocols of communication. We all took the license
18 challenge very seriously.

19 JUDGE SIPPEL: I understand that. It
20 seems to me as though for some reason or other at this
21 point in time either -- you're saying it was Jackie
22 Wright. The people up at -- up above you at the

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1 district level -- Mr. Campos was in what office again?
2 Was he -- he was in the school district, or was he in
3 the City Council's office, or what?

4 THE WITNESS: I believe he, at that time,
5 was a lawyer for the city and county of San Francisco.
6 But it's my understanding that sometimes attorneys at
7 the city and county of San Francisco can be assigned
8 to other sites.

9 JUDGE SIPPEL: Well, I understand that.
10 But he was an in-house counsel for the government, for
11 the city government.

12 THE WITNESS: Yes.

13 JUDGE SIPPEL: All right. It seems like
14 up until that point -- these are my -- I'm just trying
15 to short -- use some shorthand language for this. But
16 it seems like he and the station were kind of
17 operating on their own, without bringing the city --
18 you know, the supervising city government in on
19 things. Not for purposes of hiding or anything like
20 that. It's just that it seemed like that they were --
21 that it was -- it was that type of a relationship.

22 And then, all of a sudden something kicked

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1 in here. You would say, "Well, wait a minute. They
2 want to get a tighter -- they want to get tighter
3 control over what's going on here. So from here on
4 out, you're to contact -- you're to copy Wright and
5 Campos." You're nodding your head in agreement. I
6 mean, but, you know, maybe -- I'm trying to -- can you
7 respond to what I'm saying? I mean, is it factually
8 true, or is it --

9 THE WITNESS: Your Honor, I respond by
10 saying we were trying to establish the most
11 transparent protocols and the best protocols --

12 JUDGE SIPPEL: All right. But why --

13 THE WITNESS: -- to keep everybody
14 informed. I agree with your --

15 JUDGE SIPPEL: Why at this time, though?

16 THE WITNESS: Like you, I think I assumed
17 that those protocols -- that communication to senior
18 management at SFUSD may not have been happening prior
19 to Jackie Wright, David Campos, Dr. Ackerman, and
20 myself --

21 JUDGE SIPPEL: All right.

22 THE WITNESS: -- coming on board.

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1 JUDGE SIPPEL: All right. Now, who was --
2 Jackie Wright was your -- you say she was your
3 supervisor?

4 THE WITNESS: Yes.

5 JUDGE SIPPEL: Is that right?

6 THE WITNESS: Yes.

7 JUDGE SIPPEL: Your immediate supervisor?

8 THE WITNESS: Yes.

9 JUDGE SIPPEL: Now, your offices are at
10 the station, you've testified to. Where are her
11 offices?

12 THE WITNESS: Downtown at 555 Franklin
13 Street.

14 JUDGE SIPPEL: Is that --

15 THE WITNESS: At the district
16 headquarters.

17 JUDGE SIPPEL: So that's not next door.
18 That's --

19 THE WITNESS: No, we're located in a high
20 school that's at the -- almost the border of San
21 Francisco and the city of South Francisco.

22 JUDGE SIPPEL: All right. So how does she

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1 supervise you?

2 THE WITNESS: Phone, e-mail, visits, and
3 I would check in regularly at 555 Franklin Street, at
4 district headquarters.

5 JUDGE SIPPEL: And how much of control or
6 supervision did she take over this -- this matter, the
7 matter involving the FCC, after you came board?

8 THE WITNESS: Like me, she wanted to make
9 sure that everything was done to protect the district
10 and to inform the people that needed to be informed
11 about this.

12 JUDGE SIPPEL: Yes.

13 THE WITNESS: She would support me.

14 JUDGE SIPPEL: Did she give you direction?
15 I mean, did she tell you what to do? This -- here she
16 told you what to do about this. You're nodding yes.

17 THE WITNESS: Right. She certainly did
18 with regard to invoices and being kept in the
19 communications loop.

20 JUDGE SIPPEL: Did she get into looking at
21 the evidence at all? When I say the "evidence," I
22 mean the documents that related to the public

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1 information file?

2 THE WITNESS: I can't be sure of that,
3 Your Honor.

4 JUDGE SIPPEL: Well, you would know,
5 wouldn't you?

6 THE WITNESS: Well, I know that she
7 definitely read the brief that we had --

8 JUDGE SIPPEL: No, no, no, no, no. I'm
9 talking about the documents themselves.

10 THE WITNESS: She might have. I'm sure
11 she looked at the --

12 JUDGE SIPPEL: Well, you would know if she
13 did, though, I mean, after you got there, right? I
14 mean, if she was that -- she would -- you would know
15 that she was doing that.

16 THE WITNESS: Right. For example, she
17 signed the ownership reports --

18 JUDGE SIPPEL: All right.

19 THE WITNESS: -- because Jackie Wright had
20 signed the ownership reports.

21 JUDGE SIPPEL: All right.

22 THE WITNESS: So she was being kept in the

1 loop. "Here's a letter from Ernie. Here are the
2 ownership reports. Can you please sign these?"

3 JUDGE SIPPEL: Well, was that happening
4 before you -- when did you say that she took over,
5 when she assumed her position? She was new, too,
6 wasn't she?

7 THE WITNESS: She was new. Might have
8 been four to six months before I came. I'm not really
9 absolutely sure.

10 JUDGE SIPPEL: Now, did she say anything
11 to you about what the -- how timely the information
12 was getting to her before you came on board?

13 THE WITNESS: She only -- she didn't know
14 about the license challenge before I came on board.

15 JUDGE SIPPEL: She didn't know?

16 THE WITNESS: No.

17 JUDGE SIPPEL: How do you know that?

18 THE WITNESS: Because we both found out
19 together. Well, not exactly physically together, but
20 it was a story -- it was -- it came out right as I
21 came on. And I do remember saying to Jackie, "The
22 station has a license challenge pending against it."

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1 And she was like, "Find out about it. What's going
2 on? What's the status? Please make sure you let me
3 know what the status is and keep me very briefed on
4 this."

5 JUDGE SIPPEL: And who was her counterpart
6 before she came on board? Do you know?

7 THE WITNESS: I don't really know.

8 JUDGE SIPPEL: SFUSD is the -- I mean, I
9 guess I'm talking -- really asking this rhetorically,
10 but that's the licensee, right?

11 THE WITNESS: Correct.

12 JUDGE SIPPEL: That's the entity that is
13 the licensee.

14 THE WITNESS: The school commissioners,
15 yes.

16 JUDGE SIPPEL: And you're saying that
17 Jackie Wright is -- what was her position?

18 THE WITNESS: Executive Director, Office
19 of Public Information and Engagement.

20 JUDGE SIPPEL: And she found out when you
21 found out that the license was at risk for the first
22 time?

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1 THE WITNESS: Yes.

2 JUDGE SIPPEL: You're quite sure about --
3 well, how sure can you be that it's the first time for
4 her? Did she say that to you? Well, I know you
5 testified as to what she did say to you, so I guess I
6 can infer from that. But I'm asking you for your
7 bottom line. I mean, are you convinced that it was at
8 the time that you learned that she learned?

9 THE WITNESS: As convinced as I can be,
10 yes, Your Honor.

11 JUDGE SIPPEL: All right. All right.
12 Now, what about -- what about their in-house counsel,
13 Mr. Campos or somebody comparable to him, did you ever
14 talk to him about this? When I say "this," I mean,
15 you know, what you were doing in that early March
16 period. Did you have any conversations with Mr.
17 Campos?

18 THE WITNESS: More than likely, it would
19 have been Jackie who had the conversations with Mr.
20 Campos.

21 JUDGE SIPPEL: Yes. I know it would have
22 been more than likely. I'm just asking you: did you

1 have any conversations with him at all?

2 THE WITNESS: No, not until Ernie came out
3 for his visit.

4 JUDGE SIPPEL: Which was?

5 THE WITNESS: April.

6 JUDGE SIPPEL: April, okay. Well, did you
7 have occasion to find out anything about how Mr.
8 Campos learned about this for the first time?

9 THE WITNESS: Not directly.

10 JUDGE SIPPEL: What about indirectly?

11 THE WITNESS: Only in that Jackie had
12 asked me to make sure that Ernie and Susan Jenkins --
13 Ernie Sanchez and Susan Jenkins could write something
14 brief -- the senior management at SFUSD about the
15 history of this license challenge.

16 JUDGE SIPPEL: What timeframe was that?

17 THE WITNESS: I immediately --

18 JUDGE SIPPEL: Did you say April? I'm
19 sorry. I'm trying to get the dates.

20 THE WITNESS: I immediately requested
21 that. Not immediately, but I remember that I
22 requested that from Mr. Sanchez and Ms. Jenkins, it

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1 must have been sometime in March, and that they came
2 out in April to deliver that brief and meet with --

3 JUDGE SIPPEL: That was for the benefit of
4 the superintendent's office, though?

5 THE WITNESS: Yes, it was.

6 JUDGE SIPPEL: All right. Now, when you
7 were interviewed, you were interviewed by Dr.
8 Ackerman, is that right? She directly interviewed
9 you?

10 THE WITNESS: Yes, she did.

11 JUDGE SIPPEL: All right. At that time,
12 I believe your testimony is is that nothing was said
13 about this -- the challenge, you call it the license
14 challenge, right? Is that -- am I recalling your
15 testimony correctly?

16 THE WITNESS: When I had my meeting with
17 Dr. Ackerman --

18 JUDGE SIPPEL: Right.

19 THE WITNESS: -- we did not discuss the
20 license challenge.

21 JUDGE SIPPEL: She didn't raise it with
22 you.

1 THE WITNESS: No, she didn't.

2 JUDGE SIPPEL: She didn't tell you
3 anything about it. So there was nothing really to
4 discuss, right? She didn't raise it with you.

5 THE WITNESS: She didn't discuss it.

6 JUDGE SIPPEL: And you didn't know
7 anything about it.

8 THE WITNESS: No.

9 JUDGE SIPPEL: All right. Do you have any
10 -- what -- can you tell us whether or not you have
11 been able to draw any conclusions as to whether or not
12 Dr. Ackerman knew about the license challenge at the
13 time she interviewed you?

14 THE WITNESS: I can't --

15 JUDGE SIPPEL: When I say "know," I mean,
16 did she have direct knowledge of it?

17 THE WITNESS: I can't testify to that,
18 Your Honor.

19 JUDGE SIPPEL: All right. Nothing that
20 was said to you later or -- you were -- you said you
21 were shocked when you learned about it, and you first
22 learned about it from -- from Mr. Helgeson, is that

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1 right?

2 THE WITNESS: Mr. Helgeson and the
3 courtesy call that Mr. Sanchez gave me.

4 JUDGE SIPPEL: All right. Those are not
5 two people having anything to do directly with SFUSD.

6 THE WITNESS: Well, Mr. Helgeson works for
7 SFUSD.

8 JUDGE SIPPEL: I understand. Well, all
9 right.

10 THE WITNESS: But you're right. They are
11 not downtown in the headquarters for SFUSD. You are
12 correct.

13 JUDGE SIPPEL: I do -- I stand corrected.
14 You're all really agents for SFUSD. But in terms of
15 the headquarters SFUSD, which would be Jackie Wright,
16 Mr. Campos, all the way up the line, at what point in
17 time did they learn about this? "This" being that
18 there was a challenge of the station's license.

19 THE WITNESS: Your Honor, all I know for
20 sure is when Jackie Wright found out about it, and
21 that we were told to -- I was given the directive to
22 find out as much as I can and to be precise about the

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1 briefing to senior management, to have the Sanchez law
2 firm brief senior management.

3 JUDGE SIPPEL: All right. Well --

4 THE WITNESS: I can speculate, but --

5 JUDGE SIPPEL: No, no. I'm not asking you
6 to speculate. And maybe it is that -- maybe it's
7 someplace in the record, and maybe somebody could
8 clarify this for me at some point down the road. But
9 I certainly would like to know -- I mean, this is very
10 disturbing, to hear this this way from you.

11 But you're only giving me what you know,
12 and there may be a much better explanation for this
13 someplace in the record.

14 Okay. I'm sorry. I didn't mean to
15 interrupt that long.

16 MS. LEAVITT: No, that's fine, Your Honor.

17 JUDGE SIPPEL: Go ahead.

18 BY MS. LEAVITT:

19 Q I will direct your attention to another
20 exhibit, which is EB 24, an e-mail from Mr. Sanchez to
21 you dated March 28, 2001, with copies to William
22 Helgeson, J. Wright, and D. Campos, Subject: FCC.

1 JUDGE SIPPEL: This is EB 21?

2 MS. LEAVITT: Yes. 24, Your Honor.

3 JUDGE SIPPEL: 24, EB 24?

4 MS. LEAVITT: Yes.

5 BY MS. LEAVITT:

6 Q Do you have any reason to believe that you
7 did not receive this e-mail?

8 A No, I have no reason to believe that.

9 Q Do you recall reading this e-mail?

10 A To the best of my ability, recalling 2001,
11 I'm sure I read the e-mail.

12 Q And he says that he expects to have a
13 draft reply ready to Monday and will share it with you
14 and the others. "We will need to file the response by
15 the end of next week." I assume you all know that
16 he's referencing -- or you understood that he was
17 referencing the SFUSD response to the Commission's
18 February 2001 LOI?

19 A I believe that's what he was referencing,
20 yes.

21 Q Upon receiving this e-mail, what did you
22 do?

1 A Nothing.

2 Q Did you speak with Mr. Helgeson about
3 this?

4 A About what?

5 Q This e-mail, about the contents of this
6 e-mail, about Mr. Sanchez's providing a draft response
7 by the end of next week.

8 A Well, Mr. Helgeson was cc'd on it.

9 Q Right. But you might have discussed it
10 with him. And I'm just wondering if you have a
11 recollection of discussing it with him.

12 A Probably not. I had a lot to do.

13 Q Do you recall discussing it with Jackie
14 Wright?

15 A Perhaps in passing, in a casual way. I
16 can't be precise in --

17 JUDGE SIPPEL: Well, don't speculate.
18 Just say yes, no, or I don't remember.

19 THE WITNESS: I don't remember.

20 BY MS. LEAVITT:

21 Q Okay. And did you speak with Mr. Campos?

22 A I don't remember.

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1 Q Okay. Okay. Turning to --

2 JUDGE SIPPEL: I think we've pretty well
3 established that she -- her contacts were with Jackie
4 Wright. I don't believe from what my -- from my voir
5 dire here, she didn't have many, if any, direct
6 contact with Mr. Campos. Am I correct on that?

7 THE WITNESS: You are correct, Judge.

8 MS. LEAVITT: Okay. I'm sorry, Your
9 Honor.

10 JUDGE SIPPEL: No, no. Let's go.

11 BY MS. LEAVITT:

12 Q Okay. EB Exhibit 35, which is the May 1,
13 2001, Sanchez invoice, looking at page 2, do you see
14 an entry for April 2, 2001, that reads, "SMJ, work on
15 response to FCC letter, including numerous telephone
16 conversations with Mr. Helgeson and Ms. Sawaya."

17 A I do see that.

18 Q And the billing was about 10 hours.

19 A I do see that.

20 Q Okay. Do you recall what you were
21 discussing?

22 A I believe with Ms. Jenkins I was

1 discussing the history, really trying to get briefed
2 again about how this came to pass.

3 Q Okay. Let me refer you to SFUSD
4 Exhibit 21.

5 A Would that be in my binder?

6 MR. PRICE: Yes.

7 BY MS. LEAVITT:

8 Q This is an e-mail from Mr. Sanchez to
9 David Campos, a copy to J. Wright, W. Helgeson, and
10 Nicole Sawaya, sent Tuesday, April 3, 2001. And it
11 says, "David, attached is our draft response to the
12 FCC based on our discussions with Nicole Sawaya and
13 Bill Helgeson." In the interest of speed, we are
14 sharing this draft with everyone at the same time. We
15 look forward to talking with you on Wednesday. Best
16 regards, Ernest -- Ernie Sanchez."

17 And this exhibit contains six additional
18 pages. Did you -- did you receive this e-mail on
19 April 3, 2001?

20 A I did.

21 Q And when did you read it?

22 A I can't be sure. I might have started

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1 that day, although it was sent 7:37 p.m.

2 Q Right.

3 A That must be Eastern Standard Time, which
4 would make it 4:30 Pacific Standard Time.

5 Q So you could have started reviewing it at
6 that time. Okay. Ms. Sawaya, I'd ask that you get a
7 copy --

8 MR. PRICE: Was there an answer to that
9 last question?

10 MS. LEAVITT: I'm sorry. No, I wasn't.
11 I withdraw that.

12 BY MS. LEAVITT:

13 Q Ms. Sawaya, I would ask that you get a
14 copy of EB Exhibit 21, your March 8, 2001, memorandum
15 and attachments.

16 A I only have the --

17 MR. PRICE: Oh, I'm sorry. The March 8th
18 memo is in here.

19 THE WITNESS: Oh, I'm sorry. I was
20 looking for --

21 MR. PRICE: Why don't you look at both of
22 those documents.

1 JUDGE SIPPEL: Do you have an extra copy
2 of that that she could have at the ready? It sounds
3 like you flip back to that a lot.

4 MR. PRICE: She can take it out of this
5 binder here. It's in the binder here.

6 JUDGE SIPPEL: Well, I don't want to -- I
7 mean, it's a suggestion. Just trying to save a little
8 time.

9 BY MS. LEAVITT:

10 Q Ms. Sawaya, do you know how Mr. Sanchez
11 came to draft this response that's included -- that is
12 attached or part of the April 3, 2001, e-mail on which
13 you were copied?

14 A May I please ask, what do you mean by
15 "how"?

16 Q Yes. Did you have any understanding of
17 how he was able -- what information he used in
18 drafting this response?

19 A My March 8th conversations with William
20 Helgeson and his own knowledge about events of the
21 station.

22 Q Okay. Turning to page 2 of this

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1 exhibit --

2 A Which exhibit?

3 Q SFUSD Exhibit 21.

4 A Ma'am, page 2 for me of that is the
5 ownership report for non-commercial educational
6 broadcast stations.

7 Q Ms. Sawaya, had you read through SFUSD
8 Exhibit 21, the draft response that Mr. Sanchez
9 prepared?

10 A I have racked my brain as to how closely
11 I read this, and probably I felt that it was in such
12 good hands that I gave it a cursory read.

13 Q Okay. Well, let's look at page 2 of SFUSD
14 Exhibit 21. About three-quarters of the way down, we
15 actually get into Mr. Sanchez's specific responses to
16 the LOI questions that the FCC had posed. And the
17 first one, it says, "1) Ownership Supplemental Reports
18 Inquiry. On August 1, 1997, when the subject license
19 renewal application was filed, did the KALW(FM) public
20 inspection files contain all of the ownership and
21 supplemental reports required to be kept by the
22 Section 73.3527." Response: Yes.

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